

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BECKLEY

HENRY DOUGLAS BURTON,

Petitioner,

v.

CIVIL ACTION NO. 5:04-1338

COMMONWEALTH OF VIRGINIA,

Respondent.

ORDER

By Standing Order entered on July 21, 2004, and filed in this case on March 8, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and a recommendation. Magistrate Judge VanDervort filed his proposed findings and recommendation on March 23, 2005. In that filing, the magistrate judge recommended that this court transfer petitioner's petition for writ of habeas corpus to the United States District Court for the Western District of Virginia and remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a de


novo review by this court. Thomas v. Arn, 474 U.S. 140 (1985); Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989). The petitioner did, however, file a request that this court adopt Magistrate Judge VanDervort's recommendation (Doc. No. 6).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby CONFIRMS AND ACCEPTS Magistrate Judge VanDervort's proposed findings and recommendation, TRANSFERS this matter to the United States District Court for the Western District of Virginia pursuant to 28 U.S.C. § 1404(a), and ORDERS this matter removed from the court's docket.

The Clerk is directed to mail a copy of this order to all counsel of record and to the petitioner.

IT IS SO ORDERED this 18th day of April, 2005.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge